

IN THE HIGH COURT OF HIMACHAL PRADESH
AT SHIMLA

Cr. Revision No. 69 of 1997

Date of Decision: 28th July, 2006.

State of H.P.

Petitioner.

Versus

Mohinder Singh.

Respondent.

Coram

The Hon'ble Mr. Justice V.K.Gupta, C.J.

Whether approved for reporting¹?

For the petitioner: Mr. P.M.Negi, Dy. Advocate
General.

For the respondent: None.

V.K.Gupta, C.J. (Oral).

This petition can be disposed of on two very short and simple grounds.

In this petition, to be treated as one having been filed under Article 227 of the Constitution of India in view of the order passed by their Lordships of the Supreme Court on 12th February, 2004 in Criminal Appeal No.217 of 2004, the order passed on 16th October, 1995 by the learned Sessions Judge, Mandi, Kullu and Lahaul Spiti Districts at Mandi in Criminal Appeal No.19 of 1995 is under challenge.

¹Whether the reporters of Local Papers are allowed to see the Judgment?

By this impugned judgment, while setting aside the order passed on 31st July, 1995 by the Authorised Officer under Section 52-A of the Forest Act (Himachal Pradesh Amendment), the learned Sessions Judge has directed the release of the truck in favour of the respondent. The order passed by the Authorised Officer under Section 52-A (supra) has been set aside by the learned Sessions Judge mainly on one ground.

It is the undisputed case of the parties that originally one Sumer Nath was the registered owner of the vehicle in question. Show cause notice against the proposed confiscation of the vehicle was issued by the Authorised Officer to said Shri Sumer Nath who, however, dis-owned his ownership. The Authorised Officer issued a communication to the Secretary, State Transport Authority to verify the fact regarding the ownership. This fact having been verified, the Authorised Officer issued a show cause notice once again to Sumer Nath who intimated the Authorised Officer that he had sold the vehicle to one Jai Kishan Sharma. Jai Kishan Sharma in turn had sold the vehicle to one Puran Chand and finally Puran Chand had sold the vehicle to the respondent Mohinder Singh. Undoubtedly Mohinder Singh respondent was not associated with the enquiry

regarding the proposed confiscation of the vehicle in question. Section 52-B of the Indian Forest Act (Himachal Pradesh Amendment) clearly lays down that no order confiscating any vehicle shall be made under Section 52-A except after giving notice in writing to the owner of the vehicle and after considering his objections to such a proposal. The learned Sessions Judge was convinced that because respondent being the owner of the vehicle had not been afforded the aforesaid opportunity, the order suffered from the aforesaid patent illegal error.

It may also be noted here that in this case there were serious doubts about the recovery of timber from the vehicle in question because apparently by invoking Section 27 of the Evidence Act, the timber was recovered from a nearby place. That, however, is not the ground upon which I should even take note of in this petition because that ground was not even taken into consideration while rendering the decision by the learned Sessions Judge.

For the foregoing reasons, I find no merit in this revision petition, which is dismissed.

28th July, 2006.
(tr)

(V.K. Gupta), C.J.

